Customer No. 24498
Attorney Docket No. PF020142
Office Action Date: June 11, 2008

REMARKS

The Office Action mailed June 11, 2008 has been reviewed and carefully considered. No new matter has been added.

Applicant's Claims 1-10 are pending in this application.

Claims 1 and 10 stand rejected under 35 U.S.C. § 101, as being directed to non-statutory subject matter. Claim 1 has been amended to now recite, *inter alia,* "a memory for storing". Moreover, Claim 10 has been amended to now recite, *inter alia*, "wherein said device is adapted to generate and store". Hence, both Claims 1 and 10 involve memory and, thus, hardware, falling into at least one of the following statutory classes: machine; and manufacture. Thus, Claims 1 and 10 are believed to satisfy 35 U.S.C. § 101. Reconsideration of the rejection is respectfully requested.

Claims 1-10 stand objected to because of informalities. In accordance with the Examiner's suggestions, the following has actions have been taken: "A" has been inserted before "device" in independent Claims 1 and 10; "the" has been inserted before "device" in the dependent claims; "wherein" has been inserted after "claim 5," in Claim 6, and Claims 8 and 9 have been rewritten in independent form to be directed to method claims. Claim 1-10 are believed to include no informalities. Hence, withdrawal of the objection is respectfully requested.

Claims 5 stands rejected under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claim 5 has been amended to now exclude the word "intended" there from. Hence, reconsidcration of the rejection is respectfully requested.

The Examiner also rejected Claims 1-10 under 35 U.S.C. § 102(e) as being anticipated by U.S. Pub. No. 2002/0161571 (hereinafter "Matsushima"). The rejection is respectfully traversed.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (*Lindemann Maschinenfabrik GmbH v. American Hoist & Derrik Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1983)) (emphasis added).

Applicant's invention and Matsushima are directed to different problems that are present in the field of copy protection and they utilize different methods and devices for solving these problems. In general, Matsushima relates to the problem associated with editing audio data which has been "checked-out" of a global copy protection system ("global CPS") ([0005]-[0007]). More specifically, it addresses complications which occur when a user attempts to "check-in" audio data which has been edited into the global CPS ([0006]-[0007]). Hence, Matsushima is directed to protecting content using the same content protection system at all times, namely a global CPS. On the other hand, Applicant's invention deals with copy protection problems which arise when a user converts a file from a global CPS to a local copy protection system ("local CPS") ([0011]-[0012]). Hence, at the outset, Matsushima fails to disclose a local CPS, let alone details relating to the concept of converting a file from a global CPS to a local CPS.

The global CPS described in Matsushima converts audio into a protected format and only devices which are compliant with the global CPS have the ability to play the audio data ([0002]). If a user wishes to play the audio data on a device which is not compliant with the global CPS, the audio data must be checked-out in order to make the audio data

playable ([0002]). Check-out may only be performed a predetermined number of times before the management system requires that the audio data is checked back in ([0003]).

Matsushima addresses a particular problem which arises when one has "checked-out" an audio file from the management system and that audio file is subsequently edited by the user ([0005]-[0007]). Complications arise when the user attempts to "check-in" the edited content. The edited content will not match the "track ID" and "media ID" associated with the check-out information ([0005]-[0006]). Therefore, check-in is not performed properly and the edited audio file remains in a playable state ([0006]). This allows ill-intentioned users to illegally increment the number of permitted check-outs ([0006]).

In contrast, Applicant's invention addresses the copy protection problem which arises when a user exports protected content from a global CPS to a local CPS ([0011]-[0012]). Although the copy which is generated by the exportation process cannot be copied again, there is no limitation on the amount of times a user can export content from a global CPS to a local CPS ([0011] and [0019]). This means that an ill-intentioned user can make an unlimited amount of copies by repeatedly exporting the content from a global CPS to a local CPS ([0011]-[0012]).

With respect to Claims 1, 8, 9 and 10, it is respectfully asserted that Matsushima does not teach a device or methods for preventing the illegal exportation of content from a global copy protection system to a local copy protection system. In the pending Office Action, the Examiner appeared to equate the "checking-out process" described in Matsushima with "exporting content from a global CPS to a local CPS" as described by Applicant. However, these two processes are not the same.

The exportation process described by Applicant essentially refers to converting protected content from one copy protection system (a global CPS) to another copy protection system (a local CPS) ([0011]). For example, a user may want to back-up content, which is presently protected by a global CPS, onto a DVD which is protected by a local CPS. Current systems allow for such a conversion, but they do not provide sufficient copy protections (e.g. they allow an unlimited amount of copies to be made by repeatedly exporting the content from a global CPS to a local CPS) ([0011]). Hence, Applicant's invention is directed to a copy protection system which ensures that content, which is protected by a global CPS, cannot be exported an unlimited number of times to a local CPS ([0012]).

On the other hand, the check-out process in Matsushima refers to something quite different. The check-out process refers to the process of enabling audio content to be playable on devices that are not compliant with the global CPS ([0002]-[0003]). The global CPS described in Matsushima ensures that the check-out process can only be performed a limited number of times before requiring the audio content to be checked-in ([0003]). However, it is important to note that while the audio content in Matsushima may be checked-out, it remains within the same global CPS at all times. The fact that audio content was checked-out does not imply that the content is outside the protection of the global CPS or that the content has been exported to some other copy protection system. In fact, Matsushima does not teach anything related to exporting content from a global CPS or converting content from a global CPS into a local CPS. Rather, the checking-out process described in Matsushima merely refers to the process of enabling audio content to be playable on an audio device ([0002]). Therefore, Matsushima does not teach a device or

methods for preventing the illegal exportation of content from a global CPS to a local CPS and, thus, it is believed that Claims 1, 8, 9 and 10 are allowable. Reconsideration of the rejection is requested.

A reference cited against a claim under 35 U.S.C. §102 must disclose each and every limitation of the rejected claim. Therefore, the Applicant submits that, for at least the reasons recited above, Matsushima fails to teach each and every element of the claimed invention. Accordingly, Claims 1, 8, 9 and 10 are patentably distinguishable over Matsushima for at least the reasons set forth above.

All remaining claims depend from either Claims 1, 8, 9 or 10, or a claim which itself is dependent from one of these claims. Thus, all remaining claims include all of the elements found in the claims from which they depend. Accordingly, all remaining claims are patentably distinct over the cited references for at least the reasons set forth above.

Thus, reconsideration of the rejection is respectfully requested.

Respectfully submitted,

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Paul Kiel, Attorney for Applicants
Reg. No. 40,677

Patent Operations
Thomson Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312